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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

SHANO SCHMIDT,

Defendant and Appellant.

B185930

(Los Angeles County  
Super. Ct. No. BA278379)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Michael Kellog and Mark V. Mooney, Judges. Affirmed.

Thien Huong Tran, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Victoria B. Wilson and Herbert S. Tetef, Deputy Attorneys General, for Plaintiff and Respondent.

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## INTRODUCTION

Appellant Shano Schmidt challenges his conviction of possession of methamphetamine for sale. He asks this court to review the transcript of the in camera hearing on his *Pitchess*<sup>1</sup> motion in the trial court and any documents produced to determine whether the court improperly withheld any discoverable material. We conclude the trial court did not abuse its discretion.

## BACKGROUND AND PROCEDURAL HISTORY

Deputy Marko Tinoco asked appellant to show his ticket on the subway. Because appellant did not have a ticket, Tinoco took him off the subway at the next stop. Tinoco asked appellant to remove his shoes. As appellant complied, a plastic baggie containing 9.35 grams of methamphetamine fell out of appellant's shoe. Appellant told Tinoco that the purpose of possessing the methamphetamine was "to put money in his pocket."

A jury convicted appellant of possessing methamphetamine for sale. The trial court found true allegations that appellant had a prior conviction within the scope of Health & Safety Code section 11370.2, subdivision (c) and had served a prior prison term within the definition of Penal Code section 667.5, subdivision (b). Appellant was sentenced to five years in prison.

## DISCUSSION

Appellant filed a motion in the trial court seeking discovery of identifying information regarding everyone who filed a complaint or was interviewed in connection with any complaint against Deputy Tinoco alleging false arrest, planting evidence, fabrication of police reports or probable cause, false testimony, perjury, or racial or ethnic bias. The motion was granted with respect to all of these matters except racial or ethnic bias. The court conducted an in camera review of complaints produced by the custodian of records for the Los Angeles County Sheriff's Department. It found no relevant complaints.

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<sup>1</sup> *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

Appellant requests this court to review the record of the in camera proceedings to determine whether the trial court ordered disclosure of all responsive complaints.

A defendant seeking discovery of a police officer's personnel records and complaints against such officers must file a motion describing the type of records sought and showing, inter alia, the materiality of the information to the subject of the pending action and good cause for disclosure. (Evid. Code, §§ 1043, 1045.) Upon such a showing, the trial court examines the records in camera and discloses only those, if any, that are both relevant to the pending action and are not statutorily excluded from disclosure by Evidence Code section 1045, subdivision (b). (*People v. Mooc* (2001) 26 Cal.4th 1216, 1226-1227.) To facilitate appellate review, the court must make a record of documents it reviewed by photocopying the documents, making a list of them, or simply stating for the record the documents it reviewed. (*Id.* at p. 1229.) We review the trial court's decision for abuse of discretion. (*People v. Jackson* (1996) 13 Cal.4th 1164, 1220.)

Our review of the reporter's transcript of the in camera review of documents produced by the sheriff's department shows the trial court properly exercised its discretion. It examined the complaints produced by the custodian and agreed with the custodian's description regarding the nature of the complaints on the record. The only complaints in existence alleged conduct falling outside the scope of the granted motion. The court also inquired as to the method and extent of the custodian's search. As a result, the court did not abuse its discretion.

### **DISPOSITION**

The judgment is affirmed.

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BOLAND, J.

We concur:

RUBIN, Acting P. J.

FLIER, J.